

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

04 12016 NMG

DANIEL FERULLO d/b/a/ HIT &
RUN SPORTS AND GAMES,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE
and UNITED STATES POST
OFFICE,

Defendants.

MAGISTRATE JUDGE *Alexander*

C.A. No. _____

RECEIPT # _____

AMOUNT \$ *N/A*

SUMMONS ISSUED *N/A*

LOCAL RULE 4.1 _____

WAIVER FORM _____

MCF ISSUED _____

BY DPTY. CLK. *20.1M*

DATE *9/17/04*

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Defendants United States Postal Service and United States Post Office, (collectively "USPS"), by and through their attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby file this Notice Of Removal, and as grounds for such removal state as follows:

1. USPS is named as a defendant in three small claims actions styled as follows: Daniel Ferullo (Hit & Run Sports and Games) v. United States Post Office, Docket No. 0447 SC 0076; Daniel Ferullo (Hit & Run Sports and Games v. United States Postal Service, Docket No. 0447 SC 0077; and Daniel Ferullo (Hit & Run Sports and Games v. United States Postal Service, Docket No. 0447 SC 0078, now pending in the Trial Court of Massachusetts, Small Claims Session, Concord Division, Middlesex County.

2. In all three of these actions, plaintiff Daniel Ferullo makes allegations of negligence in connection with the failed and/or improper delivery of his mail.

3. Pursuant to 28 U.S.C. § 2679, Plaintiff's exclusive remedy for injury arising from the alleged negligent acts of an agency or employee of the United States is a suit against the United States under the provisions of the Federal Tort Claims Act.

4. If filed in a state court, such actions are removable to United States District Court at any time before trial. 28 U.S.C. § 2679. This action is therefore removable to this Court.

5. No previous application for removal of these actions has been made.

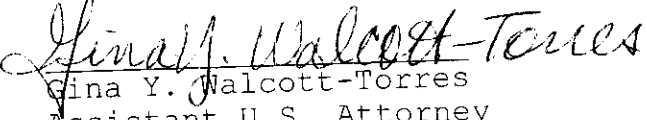
6. A copy of all pleadings filed in the Concord District Court Small Claims Session are attached hereto.

WHEREFORE defendant USPS prays that these actions be entered upon the docket of this Court and, upon filing a copy of this Notice with the Clerk of the Concord District Court Small Claims

Session, that the Concord District Court shall proceed no further.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney


By: 
Gina Y. Walcott-Torres
Assistant U.S. Attorney
1 Courthouse Way
Suite 9200
Boston, MA 02210
(617) 748-3369

Dated: September 7, 2004

CERTIFICATE OF SERVICE

This is to certify that I have this 17th day of September, 2004, served upon the person listed below a copy of the foregoing document by forwarding it via regular U.S. Mail in an envelope bearing sufficient postage for delivery:

Daniel Ferullo, *pro se*
Hit & Run Sports and Games
523 Lowell Street
Lexington, MA 02420


Gina Y. Walcott-Torres
ASSISTANT UNITED STATES ATTORNEY